

Questions and Answers on the *Matelly v. France* judgment

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1. Is this the first time that the Court has ruled on the question of trade unions in the armed forces?

Article 11 of the Convention (freedom of assembly and association) guarantees trade union freedom and does not exclude any occupational group from its scope. The Court has already had occasion to examine cases involving trade union freedom within the police and the civil service (see [factsheet on trade union rights](#)). This is the first time that the Court has considered the issue with specific regard to armed forces.

2. What consequences will this judgment have? Does it give French military personnel the right to organise trade unions? Will France be required to authorise trade unions for military personnel?

The Court's judgment holds that an absolute prohibition may not be imposed on trade unions in the armed forces. However, it specifies that restrictions (even significant ones) may be placed on the exercise of freedom of association by military personnel, since the specific nature of the armed forces' mission requires that trade union activity be adapted in consequence. Nonetheless, those restrictions must not deprive service personnel of the general right of association (of which the right to organise is only one aspect) in defence of their occupational and non-pecuniary interests: these restrictions may concern the methods of action and expression used by an occupational association, but not the essence of the right itself, which includes the right to form and join such an association. In Mr Matelly's case, there was, purely and simply, a ban on joining an association, imposed on the sole basis of its memorandum of association and without other reasons.

The parties have three months to request that the case be referred to the Grand Chamber. If such a request is made and is accepted, the Grand Chamber will re-examine the case and will not give judgment for several months. If neither of the parties request that the case be referred, the judgment will become final and will be transmitted to the Committee of Ministers (the decision-making body of the Council of Europe), which supervises execution of the judgments of the European Court of Human Rights. It will then be for France to identify the measures to be taken as a result of this judgment, under the supervision of the Committee of Ministers.

3. What is the situation in other European countries? Will they have to comply with this judgment?

19 out of 42 Council of Europe member States which possess armed forces do not guarantee the right of association to their military personnel, and 35 do not guarantee the right to collective bargaining (see § 35 of the judgment).

When a Court judgment becomes final, the other member States draw the necessary consequences and may bring their systems into compliance with it, in order to avoid findings of similar violations of the Convention against them.

Media contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Céline Menu-Lange (tel: + 33 3 3 90 21 58 77)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)